



## Continuous Disclosure Procedure (Unlisted Funds)

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<b>Procedure Owner</b>	Compliance Officer (CO)
<b>Related Documents</b>	360 Capital Valuation Policy
	360 Capital Communications and ASX Disclosure (Listed Entities)
	360 Capital Related Party Transactions

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### Policy

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#### Procedure Policy

This procedure sets out continuous disclosure arrangements undertaken by 360 Capital Group Limited and its related entities, namely unlisted funds/trusts (**360 Capital**) to help investors make informed investment decisions based on timely information. 360 Capital and its Funds are committed to ensuring its investors and stakeholders receive clear, concise and effective information on a timely basis and aims to facilitate the delivery of Financial Services Disclosures through existing and emerging electronic means, for example email, hyperlinks, reference to the 360 Capital website. An effective communications and continuous disclosure regime is important for market integrity and confidence in the unlisted disclosing entity sector.

In relation to its listed funds, 360 Capital has in place board approved procedures to meet ASX continuous disclosure obligations (refer to 360 Capital Communications and ASX Disclosure (Listed Entities)).

Effective communication of Material Information is especially important in times of market volatility and financial turmoil when it is likely that:

- (a) more events arise that have a material impact on the price or value of unlisted disclosing entities' securities; and
- (b) the impact of these events on the price or value of those securities will be more significant.

#### Procedure Policy

The promotion of financial products and the delivery of Financial Services Disclosures by electronic means will conform with ASIC's Good Practice Guidance.

## Identified Risks

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### **Identification and Methodology**

The risk methodology applicable to the policy is documented in Risk Management Program.

Risks relevant to this policy can be identified in the 360 Capital Risk Register and Risk Appetite Statement.

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## Legal and Industry Standards

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### **Relevant Law, Fund Constitution Requirements and/or Industry Standard**

- a. Corporations Act Part 2M.3 and Parts 7.6 and 7.9; Chapters 6CA and Chapter 7 – Financial Services and Markets, sections 912F (licence number to be included), 923A-B and reg. 7.6.07 (restrictions on the use of certain words), 949A (general advice warning), 992AA (prohibition on hawking of managed investment schemes), 1018A-B (advertising for financial products), 1041E (false or misleading statements), 1041G (dishonest conduct), 1041H (misleading or deceptive conduct) and 1308-9 (offences) and regulations 7.6.07 (restriction on use of certain words).
  - b. ASIC Act 12BB (misleading representations).
  - c. ASIC Class Orders 02/143 (financial product market research) and 02/641 (hawking securities).
  - d. ASIC Regulatory Guide – 141 Offers of securities on the Internet
  - e. ASIC Regulatory Guide – 170 Prospective financial information
  - f. ASIC Regulatory Guide – 198 Unlisted disclosing entities: continuous disclosure obligations
  - g. ASIC Regulatory Guide – 221 Facilitating digital financial services disclosures
  - h. ASIC Regulatory Guide – 234 Advertising financial products and advice services: good practice guidance
  - i. Competition and Consumer Act.
  - j. Copyright Act.
  - k. FSC Standard 1 - Code of Ethics and Code of Conduct.
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## Process

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**Initiation Point** Upon commencement of the 360 Capital business.

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**Closure** Ongoing.

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**Disclosure Obligations** Some of the key disclosure obligations that apply to unlisted disclosing entities are:

<b>Disclosure obligations</b>	<b>Obligation applies to:</b>	<b>Summary</b>
continuous disclosure	All unlisted disclosing entities	Must lodge Material Information with ASIC or follow the Good Practice Guidance for website disclosure set out below
disclosure for offers of financial products	Entities offering interests in a managed investment scheme to retail investors	Must provide retail investors with a product disclosure statement (PDS). There are obligations to update investors for new Material Information via a supplementary or new PDS
periodic statements under s1017D of the Corporations Act 2001 (the Act)	Responsible entities of managed investment schemes	Must provide retail investors with prescribed information about their investment, including any information that the responsible entity reasonably believes the investor needs to understand their investment
financial reports	Unlisted disclosing entities that are incorporated or formed in Australia	Must lodge audited annual and half-yearly financial reports with ASIC and, in the case of debenture issuers, the debenture trustee. Must make the annual financial report available to investors in accordance with s314 of the Act.

**Disclosure Obligations (continued)**

Other disclosure obligations (not exhaustive) that apply to unlisted disclosing entities are:

Area	Examples
financial forecasts valuations ratings	<ul style="list-style-type: none"> <li>• A material change in previously released financial forecasts or expectations for an unlisted disclosing entity</li> <li>• A material change in the value of the underlying assets an unlisted disclosing entity holds</li> <li>• Any rating applied to an unlisted disclosing entity or its securities, or any change to such a rating</li> </ul>
debt funding	<ul style="list-style-type: none"> <li>• Information about any material change to the status or terms of the disclosing entity's debt funding</li> <li>• Information about any material breaches by the entity of loan covenants</li> </ul>
external administration	<ul style="list-style-type: none"> <li>• The appointment of any external administrator to the disclosing entity or registered scheme</li> </ul>
management changes	<ul style="list-style-type: none"> <li>• If an unlisted disclosing entity is a managed investment scheme, a change in the control of the responsible entity</li> </ul>
access to funds	<ul style="list-style-type: none"> <li>• If withdrawal requests are to be suspended or limited at any time, that fact and brief reasons why</li> <li>• If a registered scheme is no longer liquid for the purposes of Pt 5C.6 of the Act, that fact and brief reasons why</li> </ul>
corporate actions	Information about corporate actions that are likely to affect the value of investors' securities—for example: <ul style="list-style-type: none"> <li>• a securities placement; or</li> <li>• a buy-back of securities which not all investors have been notified</li> </ul>
benchmark disclosures	Any other disclosures against the ASIC benchmarks in: <ul style="list-style-type: none"> <li>• RG 45 Mortgage schemes—improving disclosure for retail investors;</li> <li>• RG 46 Unlisted property schemes—improving disclosure for retail investors; or</li> <li>• RG 69 Debentures—improving disclosure for retail investors</li> </ul>

**Additional disclosure obligations for 360 Capital schemes**

Additional disclosure obligations for 360 Capital Funds include:

- loan defaults
- sales of properties;
- major unbudgeted capital expenditure;
- changes in government legislation that will impact on the Fund;
- loss of key personnel; and
- potential legal action

The key is to consider whether the event is something that may cause a material change in the valuation (good or bad) of the financial product.

**Disclosure Obligations (continued)**

ASIC will monitor how unlisted disclosing entities are complying with their continuous disclosure obligations. 360 Capital will disclose Material Information by following ASIC's good practice guidance or by lodging Continuous Disclosure Notices with ASIC. Importantly, disclosure of Material Information should be done at the earliest possible time and in a form so that the disclosure is clear rather than rely on disclosure in a PDS, a prospectus or an investor newsletter.

## Definitions

Term	Definition
ASIC	Australian Securities and Investments Commission is Australia's corporate, markets and financial services regulator.
Continuous Disclosure Notice	A document lodged under s675.
Due Diligence Committee (DDC)	The committee established for the purpose of undertaking due diligence in respect of financial product disclosure documents.
Financial Services Disclosure	A disclosure required under Pts 7.6–7.9 of the Act.
Financial Services Guide (FSG)	A document required by s941A or 941B to be given in accordance with Div 2 of Pt 7.7 of the Act.
Good Practice Guidance	ASIC guidance set out in various ASIC Regulatory Guides (RGs) such as RG46: <i>Unlisted property schemes — improving disclosure for retail investors</i> ; RG198: <i>Unlisted disclosing entities — continuous disclosure obligations</i> ; RG221: <i>Facilitating online financial services disclosures</i> , and RG234: <i>Advertising financial products and advice services — good practice guidance</i>
Material Information	In relation to a unlisted disclosing entity, means: <ul style="list-style-type: none"> <li>• information that the entity is required to include in a Continuous Disclosure Notice; and</li> <li>• for the purposes of ASIC's Good Practice Guidance, also includes information that does not need to be included in a Continuous Disclosure Notice, but: <ul style="list-style-type: none"> <li>– is contained in a public document prepared by the entity; and</li> <li>– a reasonable person would expect to have a material effect on the price or value of the entity's securities.</li> </ul> </li> </ul>
Product Disclosure Statement (PDS)	A document that must be given to a retail client in relation to the offer or issue of a financial product in accordance with Div 2 of Pt 7.9 of the Act . See s761A of the Act for the exact definition.

## Definitions (continued)

Term	Definition
Provider	Any person (including a responsible entity, product issuer, Australian financial services licensee or authorised representative) who is required to give a Financial Services Disclosure to clients under the Act or an instrument of relief.
Statement of Advice (SOA)	A document that must be given to a retail client for the provision of personal advice under Subdivs C and D of Div 3 of Pt 7.7 of the Act. See s761A for the exact definition.

## Roles and Responsibilities

Role	Responsibility
all staff	<ul style="list-style-type: none"> <li>Provide the CEO with details of any event which has, or may impact upon the Funds and require disclosure as soon as details of the event are known.</li> </ul>
due diligence committee (DDC)	<ul style="list-style-type: none"> <li>If one appointed, it coordinates the due diligence process, receives progress reports and, where necessary, redirects due diligence efforts in accordance with the relevant Due Diligence Planning Memorandum.</li> </ul>
Chief Executive Officer (CEO)	<ul style="list-style-type: none"> <li>Liaise with the Head of Funds concerning any Material Information requiring disclosure.</li> <li>When necessary, provide internal or external legal counsel with drafts of communications and disclosure documents for review prior to issue or uploading to the 360 Capital website.</li> <li>Arrange the distribution of approved financial reports, investor updates and other communications to unitholders and financial planners.</li> <li>With the HC, ensure online disclosures comply with ASIC Good Practice Guidance.</li> <li>Ensure RG 46 and RG 198 disclosures are placed on the 360 Capital website.</li> </ul>
Chief Financial Officer (CFO)	<ul style="list-style-type: none"> <li>Maintain timetable of lodgement dates for audited annual and half-yearly reports on accounting and financial information.</li> <li>Provide draft accounting and financial reports to the RE board for sign-off prior to distribution.</li> </ul>
Head of Funds	<ul style="list-style-type: none"> <li>Provide the CEO with details of any event which has, or may impact upon the Funds and require disclosure as soon as details of the event are known.</li> </ul>
Head of Compliance (HC)	<ul style="list-style-type: none"> <li>Review referred matters which may need to be disclosed in accordance with disclosure requirements of the Act and relevant ASIC Regulations.</li> <li>Ensure online disclosures comply with ASIC Good Practice Guidance.</li> <li>Maintain the All Disclosures (including RG 46 and RG 198) Register.</li> </ul>
Compliance Officer (CO)	<ul style="list-style-type: none"> <li>Maintain the All Disclosures (including RG 46 and RG 198) Register.</li> <li>Ensure that this policy and procedure is administered correctly.</li> <li>Periodically review the policy and procedure ensuring that it meets AFS Licence and related requirements.</li> </ul>

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## **Review and Approval Process**

The Document Execution Approval Form (**DEAF**) must be completed prior to the release of disclosures and other communications.

The CEO or Head of Funds will ensure that matters which may need to be disclosed will be disclosed in accordance with the disclosure requirements of the Corporations Act 2001 and ASIC regulations.

The CEO must ensure that any promotional, advertising/marketing material or other communications and disclosure documents which relate to the financial services or a financial product offered by 360 Capital is verified and reviewed prior to its release or publication.

The CEO will, when necessary, provide legal counsel with drafts of communications and disclosure documents for review prior to issue or uploading to the 360 Capital website.

The author of the DEAF will annotate the DEAF that the disclosure document has been appropriately verified and reviewed and refer the document to the CEO for approval to issue.

The CEO will authorise the release of communications and disclosure documents and return the signed DEAF to the HC.

The HC will note on the DEAF the date and time of the disclosure release and the Compliance Officer (CO) will include it in the All Disclosures Register.

The CO will maintain the ALL Disclosure Register for all ASX and other ASIC disclosures.

The CO will monitor on an ongoing basis disclosure benchmarks and principles and periodically review 360 Capital's disclosure policy and procedures against disclosure requirements.

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## Online Disclosure

### 1. Corporations Act

Parts 7.6–7.9 of the Corporations Act permit a wide range of Financial Services Disclosures to be delivered online. The provisions that enable disclosures to be delivered online differ depending on the type of disclosure.

FSGs, SOAs and PDSs can be ‘given’ if they are sent to an electronic address or fax number ‘nominated’ by the client or the client’s agent.

The following disclosures may be notified or given to a client either in ‘electronic’ form or may be sent ‘electronically’:

- a) periodic statements;
- b) confirmations of transactions; and
- c) unsolicited offers to purchase financial products off-market.

The following disclosures may be ‘made available in any way agreed to’ by a client or their agent, including electronically:

- a) FSGs and SOAs;
- b) PDSs;
- c) ongoing disclosure;
- d) periodic statements; and
- e) additional information on request.

Refer to ASIC Regulatory Guide 221: Facilitating digital financial services disclosures for summaries of the different disclosure delivery provisions (both paper and electronic) that apply to different types of Financial Services Disclosures.

### 2. Delivery Methods

While most Financial Services Disclosures can be delivered online using a variety of delivery methods such as those outlined below, it is necessary in every case to take into consideration ASIC’s Good Practice Guidance.

ASIC’s Good Practice Guidance for online disclosures is set out in RG 221 and applies to any method of delivering Financial Services Disclosures online.

Compliance with ASIC Good Practice Guidance requires 360 Capital to ensure that:

- a) all Material Information is included on the website;
- b) investors are able to find Material Information easily and determine its significance for them;
- c) any new Material Information is included on the website as soon as practicable; and
- d) information is kept on the website for as long as it is relevant and appropriate records are kept.

**Email:** the provisions in RG 221.10–RG 221.12 allow Providers to send disclosures as text in an email or an attachment to an email.



## Online Disclosure (continued)

**Hyperlinks and reference to a website:** the provisions mentioned in RG 221.12 also allow Providers to deliver most disclosures by sending clients:

- a) an email with a hyperlink to the disclosure; or;
- b) a written (paper or electronic) notification that the disclosure is available from a website.

While in practice, the specific requirements for PDSs make it difficult for these disclosures to be delivered in this way they must be delivered in a way that allows 360 Capital to be satisfied, on reasonable grounds, that the client or the client's agent has received the disclosure.

To promote greater confidence in delivering PDSs online, ASIC has given relief in CO 10/1219 to enable 360 Capital to deliver:

- a) PDSs by sending a written (paper or electronic) notice with a reference to a website address where the disclosure can be found; and
- b) PDSs by sending an email with a hyperlink to the disclosure.

The client or the client's agent must agree to receive the disclosure in this way for the relief to apply.

### 3. Client consent to online disclosure

Generally, unless the law provides otherwise, a financial services Provider must obtain a client's express agreement before delivering Financial Services Disclosures online. A client's consent can be verbal or in writing.

When 360 Capital wishes to deliver a disclosure under a provision enabling disclosures to be sent to an electronic address 'nominated' by the client or the client's agent, it will need to ensure that the client or agent has expressly agreed to receive the disclosure via the relevant method of delivery.

This is because the word 'nominated' means that the electronic address must have been identified by the client or the client's agent as the address for sending disclosures. Therefore, it will be necessary for 360 Capital to make the client clearly aware that when the client provides their electronic address, disclosures will be delivered online.

When 360 Capital wishes to supply a Financial Services Disclosure online under a provision enabling disclosures to be made available as agreed between a client or their agent and 360 Capital, it will also be necessary to ensure that the client or agent has expressly agreed to receive the disclosure via the relevant method of delivery.

Accordingly, 360 Capital is generally required to deliver paper disclosures to clients **unless** a client actively decides to receive Financial Services Disclosures online (i.e. paper disclosure is the default method of delivering disclosures).

Unless the law expressly provides otherwise, paper disclosures must be sent to those clients who have not nominated how they wish to receive disclosures.

## Advertising Financial Products

### Good Practice Guidance

ASIC Regulatory Guide 234: *Advertising financial products and services (including credit)*: **Good practice guidance** applies to any communication whose purpose is to inform consumers about or promote financial products or financial advice services.

RG 234 applies to advertising communicated through any medium in any form, including:

- a) magazines and newspapers;
- b) radio and television;
- c) outdoor advertising, including billboards, signs at public venues, and transit advertising;
- d) the internet, including webpages, banner advertisements, video streaming (YouTube), and social networking and microblogging (Twitter);
- e) social media and internet discussion sites;
- f) product brochures and promotional fact sheets;
- g) direct mail (by post, facsimile or email);
- h) telemarketing activities and audio messages for telephone callers on hold; and
- i) presentations to groups of people, seminars and advertorials.

Advertising does not generally include statements in a regulated disclosure document, such as a prospectus, PDS or FSG.

Table 3 provides an overview of the Good Practice Guidance for advertising in all media. Reference should be made to the relevant sections of RG 234 where necessary.

**Table 3 Overview of Good Practice Guidance**

returns, benefits and risks	Advertisements for financial products should give a balanced message about the returns, benefits and risks associated with the product. Benefits should not be given undue prominence compared with risks: see RG 234.31–RG 234.44
warnings, disclaimers, qualifications and fine print	Warnings, disclaimers and qualifications should not be inconsistent with other content in an advertisement, including any headline claims. Warnings, disclaimers and qualifications should have sufficient prominence to effectively convey key information to a reasonable member of the audience on first viewing of the advertisement.  Consumers should not need to go to another website (or other page of the website) or document to correct a misleading impression: see RG 234.45– RG 234.50
fees and costs	Where a fee or cost is referred to in an advertisement, it should give a realistic impression of the overall level of fees and costs a consumer is likely to pay, including any indirect fees or costs: see RG 234.52–RG 234.55
comparisons	Comparisons should only be made between financial products that have sufficiently similar features or, where an advertisement compares different products, the differences should be made clear in the advertisement.  Comparisons should only be made about returns if the information used is current, complete and accurate.  If an advertisement discloses a rating, the rating used should be properly explained either in the advertisement itself or by including details of where an investor can obtain further information about the meaning of the rating and the rating scale: see RG 234.56–RG 234.70
past performance and forecasts	Past performance information should be accompanied by a warning that past performance is not indicative of future performance.  Forecasts about the future performance of a financial product should be based on reasonable assumptions and should also state that the forecasts are not guaranteed to occur: see RG 234.71–RG 234.74
use of certain terms and phrases	Terms and phrases should not be used in a particular way by industry where these are not consistent with the ordinary meaning commonly recognised by consumers (e.g. ‘free’, ‘secure’ and ‘guaranteed’).  Industry concepts or jargon should be avoided unless the promoter is confident that these terms will be understood by the audience: see RG 234.75–RG 234.85
target audience	Advertisements should be capable of being clearly understood by the audience that might reasonably be expected to see the advertisements.  Advertisements should not state or imply that a financial product is suitable for particular types of consumers unless the promoter has assessed that the product is suitable for that class.  Advertisements for complex products that are only appropriate for a limited group of people should not be targeted at a wider audience: see RG 234.86–RG 234.92
consistency with disclosure documents	Where an advertisement draws attention to specific product features, the advertisement should be consistent with information contained in any disclosure document (such as a PDS or prospectus) or contracts: see RG 234.93–RG 234.96
photographs, diagrams, images and examples	Photographs and images should not contradict, detract from or reduce the prominence of any warnings, disclaimers or qualifications.  Graphical presentations should not be ambiguous or overly complicated: see RG 234.97– RG 234.101
nature and scope of advice	Advertisements for a financial advice service should not create unrealistic expectations about what the service can achieve: see RG 234.102–RG 234.103

## Procedure Standards and Controls

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**Procedure Standard**

All significant acts in contravention of the laws, regulations, codes or organisational standards and 360 Capital policy and procedures are to be reported in accordance with the Events Breach Detection and Reporting Procedure.

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## Administration

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**Documentation**

Nil.

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**Reporting and Action Item**

Nil.

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**Control Points**

- The CEO ensures ongoing monitoring so that 360 Capital communications and disclosures remain accurate, with no material omissions and/or false or misleading statements.
  - The HC will report to the Board on communications and disclosures released during the quarter.
  - Periodic compliance questions are assigned to staff members to attest to procedure controls.
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**Review Trigger**

This procedure's effectiveness will be reviewed annually by the CO.

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## Associated Documents

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Nil.

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